

## § 1650.63

## 5 CFR Ch. VI (1–1–03 Edition)

to the most recent address provided by the participant.

(c) A participant covered by FERS must obtain the consent of his or her spouse before obtaining an in-service withdrawal unless the participant was granted, within 90 days of the date on which the new withdrawal form is received by the TSP, an exception to a signature requirement under §1650.64. To show spousal consent, a participant must submit to the TSP record keeper Form TSP-75, Age-Based In-Service Withdrawal Request, or Form TSP-76, Financial Hardship In-Service Withdrawal Request, signed by his or her spouse. Once a form containing the spouse's consent has been submitted to the TSP record keeper, the spouse's consent is irrevocable for purposes of that form.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

### **§ 1650.63 Executive Director's exception to the spousal notification requirement.**

(a) Whenever this subpart requires the Executive Director to give notice of an action to the spouse of a participant, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that the spouse's whereabouts cannot be determined. A request for an exception to a notification requirement based on unknown whereabouts must be submitted to the Executive Director on Form TSP-16, Exception to Spousal Requirements, accompanied by one of the following:

(1) A judicial determination (court order) stating that the spouse's whereabouts cannot be determined;

(2) A police or governmental agency determination signed by the appropriate department or division head which states that the spouse's whereabouts cannot be determined; or

(3) Statements by the participant and two other persons that meet the following requirements:

(i) The participant's statement must give the full name of the spouse, declare the participant's inability to locate the spouse, state the last time the spouse's location was known, explain why the spouse's location is not known currently, and describe the good faith

efforts the participant has made to locate the spouse in the 90 days preceding submission to the TSP of the request for an exception. Examples of attempting to locate the spouse include, but are not limited to, checking with relatives and mutual friends or using telephone directories and directory assistance for the city of the spouse's last known address. Negative statements, such as, "I have not seen nor heard from him" or, "I have not had contact with her", are not sufficient.

(ii) The statements from two other persons must support the participant's statement that the participant has made attempts within the preceding 90 days to locate the spouse and that the participant does not know the spouse's whereabouts.

(iii) All statements must be signed and dated and must include the following certification: "I understand that a false statement or willful misrepresentation is punishable under Federal law (18 U.S.C. 1001) by a fine or imprisonment or both."

(b) A withdrawal election received within 90 days of an approved exception may be processed so long as the spouse named on the form is the spouse for whom the exception has been approved.

[62 FR 49113, Sept. 18, 1997, as amended at 67 FR 17605, Apr. 11, 2002]

### **§ 1650.64 Executive Director's exception to requirement to obtain the spouse's signature.**

(a) Wherever this subpart requires a spouse's consent to a loan or withdrawal or a waiver of the right to a survivor annuity, an exception to this requirement may be granted if the participant establishes to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts cannot be determined in accordance with the provisions of §1650.63; or

(2) Due to exceptional circumstances, requiring the spouse's signature would be otherwise inappropriate.

(i) An exception to the spousal signature requirement may be granted based on exceptional circumstances only when the participant presents a judicial determination (court order) or a governmental agency determination signed by the appropriate department or division head. A court order or a